

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANTHONY LEWIS,
#96337

Plaintiff,

vs.

ANGELA GREGERSON, *et al.*,

Defendants.

3:12-cv-00123-RCJ-WGC

ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. A decision on the application to proceed *in forma pauperis* remains deferred. On May 2, 2012, the court dismissed plaintiff's amended complaint without prejudice and with leave to amend and directed him to file his amended complaint, if any, within thirty (30) days (ECF #4). On May 11, 2012, plaintiff filed a "motion to drop the amended complaint and to proceed with the original complaint" (ECF #5). This motion is denied. The court had already screened the operative complaint (ECF #3) and dismissed it with leave to amend (ECF #4).

Next, plaintiff filed an untimely motion to reconsider the screening order (ECF #6) on July 30, 2012. As the court dismissed plaintiff's complaint without prejudice and with leave to file an amended complaint, the court's order does not constitute a final judgment or order from which plaintiff

1 could seek relief. FRCP 59(e); FRCP 60(b); *School Dist. No. 1J Multnomah County v. AC&S, Inc.*, 5
2 F.3d 1255, 1262 (9th Cir. 1993), *cert. denied* 512 U.S. 1236 (1994). Accordingly, plaintiff's motion is
3 denied.

4 Finally, plaintiff filed a motion to dismiss amended complaint without prejudice (ECF
5 #7) on August 1, 2012. The court construes this motion as seeking to proceed with the original
6 complaint and denies this motion on the same basis that it denied plaintiff's motion to drop the amended
7 complaint.

8 Accordingly, plaintiff now shall file his second amended complaint, if any, within thirty
9 (30) days of the date of this order. Plaintiff is expressly cautioned that if he does not timely file a second
10 amended complaint in compliance with this order, this case may be immediately dismissed.

11 **IT IS THEREFORE ORDERED** that the following motions filed by plaintiff: motion
12 to drop the amended complaint and to proceed with the original complaint (ECF #5); motion to
13 reconsider the screening order (ECF #6); and motion to dismiss amended complaint without prejudice
14 (ECF #7) are all **DENIED**.

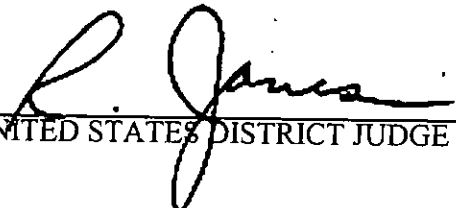
15 **IT IS FURTHER ORDERED** that plaintiff will have **thirty (30) days** from the date that
16 this order is entered to file his second amended complaint, if he believes he can correct the noted
17 deficiencies. The second amended complaint must be a complete document in and of itself, and will
18 supersede the original complaint in its entirety. Any allegations, parties, or requests for relief from prior
19 papers that are not carried forward in the second amended complaint will no longer be before the court.

20 **IT IS FURTHER ORDERED** that plaintiff shall clearly title the amended complaint
21 as such by placing the words "SECOND AMENDED" immediately above "Civil Rights Complaint
22 Pursuant to 42 U.S.C. § 1983" on page 1 in the caption, and plaintiff shall place the case number, 3:12-
23 CV-00123-RCJ-WGC, above the words "SECOND AMENDED" in the space for "Case No."

24 **IT IS FURTHER ORDERED** that plaintiff is expressly cautioned that if he does not
25 timely file a second amended complaint in compliance with this order, this case may be immediately
26 dismissed.

1 **IT IS FURTHER ORDERED** that the Clerk shall send to plaintiff a blank section 1983
2 civil rights complaint form with instructions along with one copy of the original complaint.

3 Dated this 15th day of January, 2013.

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7 UNITED STATES DISTRICT JUDGE
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